

77CV02135-RJD-MO

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
KEITH HARRIS,

Petitioner,

- against -

COPIES MAILED  
on 9/11/98  
MARIA CANDELARIA

CV 97 2135 (RJD)

**MEMORANDUM & ORDER**

CHRISTOPHER ARTUZ, SUPT.,

Respondent.  
-----X

DEARIE, District Judge.

Pro se petitioner Keith Harris has been in state custody since his February 18, 1992 conviction for second degree murder, first degree attempted robbery, second degree assault, and second degree criminal possession of a weapon. Petitioner's conviction became final on February 27, 1995, when the New York Court of Appeals denied petitioner leave to appeal his conviction. People v. Harris, 624 N.Y.S.2d 381 (1995). On or before April 23, 1997, Harris filed a petition for a federal writ of habeas corpus pursuant to 28 U.S.C § 2254.<sup>1</sup> Respondent moved to dismiss the petition for failure to comply with the statute of limitations set forth in the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA").

The AEDPA, enacted April 24, 1996, in part amended 28 U.S.C. § 2254 to provide a one-year limitations period for filing federal habeas corpus petitions. The one-year limitations

---

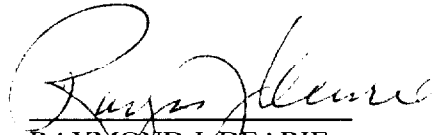
<sup>1</sup> Harris is deemed to have filed his petition when he delivered it to prison officials. See Houston v. Lack, 487 U.S. 273 (1988). Thus, Harris "filed" his petition sometime between April 18, 1997, the date he signed the petition, and April 23, 1997, the date the action was filed with the Court.

period, with certain exceptions, runs from "the date on which the judgment became final by the conclusion of direct review." 28 U.S.C. § 2244(d)(1)(A). In Ross v. Artuz, the Second Circuit held that petitioners whose convictions became final before April 24, 1996 had until April 24, 1997 to file their petitions, as they were entitled to a one-year grace period starting from the statute's effective date. Ross v. Artuz, No. 97-2789 (2d Cir. June 24, 1998). Harris' petition was filed on or before April 23, 1997, clearly before the grace period expired.

For the reasons stated above, respondent's motion to dismiss is denied. Respondent is directed to file a response to the petition within thirty days.

SO ORDERED.

Dated: Brooklyn, New York  
September 11, 1998

  
RAYMOND J. DEARIE  
United States District Judge